

1 Craig D. Webster
Federal Defenders of Eastern Washington & Idaho
2 306 E. Chestnut Ave.
Yakima, WA 98901
3 (509) 248-8920

4 Attorney for Defendant
5 Miguel Urbina

6
7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF WASHINGTON
The Honorable Mary K. Dimke
9

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 Miguel Urbina,

14 Defendant.
15

No. 1:20-CR-2049-MKD

Defendant's Sentencing
Memorandum

16
17 Miguel Urbina, by and through his attorney, Craig D. Webster, for
18 the Federal Defenders of Eastern Washington and Idaho, respectfully
19 submits this sentencing memorandum, and requests that the Court
20 impose a sentence of 210 months confinement to be followed by 5 years
21 of supervised release. For the reasons that follow, Mr. Urbina believes
22 a sentence of 210 months confinement with 5 years of supervised
23
24
25

1 release is a sentence sufficient but not greater than necessary to
2 effectuate the purposes of sentencing under 18 U.S.C. § 3553(a).
3
4

5 I. Status of the Case

6 Mr. Urbina was originally arraigned on the Indictment on
7 December 14, 2020.¹ Mr. Urbina was ordered released pending trial on
8 December 14, 2020.² Mr. Urbina was released on a combination of
9 conditions including GPS monitoring, home confinement, and
10 restrictions on internet access.³ Mr. Urbina remained successfully out
11 of custody without any significant violations⁴ until his change of plea
12 hearing. Mr. Urbina was arraigned on the Superseding Indictment on
13 October 14, 2022.⁵ The case went through a significant amount of
14 pretrial litigation and was on a trial track. Subsequent to the Court's
15 order denying Mr. Campos's Motion to Dismiss Counts 3-5, the parties
16
17
18
19

20
21 ¹ See ECF No. 1 & 12.

22 ² See ECF No. 16.

23 ³ See ECF No. 16.

24 ⁴ See ECF Nos. 33, 55, 136, 142.

25 ⁵ See ECF No. 98, 110.

1 reached resolution.⁶ On April 4, 2023, Mr. Urbina entered a guilty plea
2 to counts 1, 4, and 6 of the Superseding Indictment.⁷ Pursuant to the
3 Plea Agreement the parties agree to recommend a sentence of between
4 210 months and 300 months of incarceration.⁸ There is no agreement
5 as to a recommended term of supervised release.⁹ At the conclusion of
6 sentencing the government will move to dismiss the remaining counts.
7
8 Mr. Urbina has filed objections to the Draft PSR in a separate
9 document.¹⁰ Mr. Urbina was taken into custody at the change of plea
10 hearing. Mr. Urbina is set for sentencing on July 11, 2023, at 9 a.m.
11 before the Honorable Judge Dimke in Yakima.¹¹
12
13

14 II. Analysis of 18 U.S.C. § 3553(a) factors

15 Title 18, U.S. Code § 3553(a) directs this Court to impose a
16 sentence that is “sufficient, but not greater than necessary” to meet the
17
18

19
20 ⁶ See ECF No. 160.

21 ⁷ See ECF No. 164.

22 ⁸ See ECF No. 165 at Pg. 12.

23 ⁹ See ECF No. 165 at Pg. 12.

24 ¹⁰ See ECF No. 170.

25 ¹¹ See ECF No. 167 at pg. 2.

1 purposes of punishment. 18 U.S.C. § 3553(a)(2). Based on the factors
2 discussed below the defense believes that a sentence of 210 months
3 confinement to be followed by 5 years of supervised release meets this
4 standard.
5

6 **A. The Nature and Circumstances of the Offense and Characteristics**
7 **of Mr. Urbina**

8 The nature and characteristics of the offense support a sentence of
9 210 months confinement with 5 years of supervised release to follow.
10

11 Turning first to the nature and circumstances of the offense.¹²
12 Mr. Urbina pled guilty to 2 counts of production and 1 count of
13 possession. Count 1 (production) represents the consensual filming of a
14 consensual sexual relationship between Mr. Urbina and his partner of 8
15 years, F.H.¹³ The filming in question took place between November
16 2008 and November 2009.¹⁴ It was during this brief period of their 8-
17 year dating relationship (in which they consistently filmed their
18 consensual sexual activity) in which F.H. was 16 or 17 years old.
19
20
21

22
23 ¹² See 18 U.S.C. § 3553(a)(1).

24 ¹³ See ECF No. 98.

25 ¹⁴ See ECF No. 98.

1 According to F.H. she started dating Miguel in 2008.¹⁵ F.H. was
2 looking for someone to buy her Vodka at the time and knew that Miguel
3 was over 21 years old (23).¹⁶ Initially F.H. told Miguel that she was 19
4 years old but eventually told him the truth that she 16 years old.¹⁷ The
5 two began what would become an 8-year dating relationship.¹⁸
6

7
8 According to F.H., when she was 16-years old she was wild and
9 would stay out all hours of the night and not come home.¹⁹ According to
10 F.H., her mom liked when she started dating Miguel because she
11 became less wild and was home more.²⁰ Miguel moved out of his
12 parents' house and into F.H.'s family home.²¹ The two continued in a
13 dating relationship until they broke up for good in the beginning of
14
15
16
17

18
19 ¹⁵ See EX. A at BATES 29.

20 ¹⁶ See EX. A at BATES 29.

21 ¹⁷ See EX. A at BATES 29.

22 ¹⁸ See EX. A.

23 ¹⁹ See EX. A at BATES 29.

24 ²⁰ See EX. A at BATES 29.

25 ²¹ See EX. A at BATES 29.

1 2017.²²

2 According to Mr. Urbina, he cared deeply for F.H. and still does.
3
4 According to Mr. Urbina the filming was something that they did as a
5 part of their personal relationship. It was not until after the
6 government executed their search warrant in April 2020 that their
7 personal videos of their personal consensual sexual relationship were
8 exposed to others.
9

10 Mr. Urbina and F.H. were in a consensual sexual relationship.
11
12 The filming was consensual and a free choice that was made by both.
13 The sexual acts were legal. It is just the filming during that brief
14 period that made Mr. Urbina's conduct illegal and subject to a 15-year
15 mandatory minimum sentence.
16

17 In Count 4 (production), Mr. Urbina aided and abetted his then
18 partner T.W. in capturing upskirt videos in February 2007. Mr. Urbina
19 assisted her in setting up the filming device in her purse. The two on
20 multiple occasions went to the local stores and public women's
21 restrooms at the Union Gap Mall (Macy's, American Eagle, etc.),
22
23
24

25 ²² See EX. A at BATES 30.

1 Walmart, and Miner's. In the count of record T.W. placed her purse in a
2 bathroom stall of a public restroom. Minors were captured as well as
3 adults. While it was T.W. that made the surreptitious audio/video
4 recordings Mr. Urbina was guilty of assisting her in the conduct. Both
5 parties are equally guilty and should be held accountable for their
6 actions. Counsel is unaware of any recordings in which T.W. appeared
7 to be forced by Mr. Urbina to engage in the recordings. Both were
8 actively involved. While the conduct is serious, offensive, and invasive,
9 the recordings are more consistent with voyeurism than production of
10 child pornography. The videos captured both adults and children using
11 the restroom in public restrooms.

12
13 Finally, Count 6, is for possession of child pornography from April
14 23, 2020. At the time of his arrest Mr. Urbina confessed to having a
15 curiosity that led him to searching, downloading, and reviewing CP
16 among other taboo things.²³ Mr. Urbina acknowledged having a
17 problem with porn, feeling ashamed, and having a desire to stop.²⁴
18
19
20
21
22
23

24 ²³ See EX. B at BATES 15.

25 ²⁴ See EX. B at BATES 15-17.

1 Turning to Mr. Urbina's personal characteristics as required by
2 18 U.S.C. § 3553(a)(1).
3

4 Mr. Urbina is 38 years old.²⁵ He is a U.S. Citizen.²⁶ He was born
5 in Salinas, CA, and moved to Yakima, WA, with his family when he was
6 a young boy.²⁷ Mr. Urbina lives with his mother and father.²⁸ Three of
7 Mr. Urbina's siblings live in Yakima.²⁹ Mr. Urbina has the support of
8 his family and they are working on drafting letters of support for the
9 Court on his behalf.
10

11 Mr. Urbina is a hard worker.³⁰ While on pretrial release he was
12 employed.³¹ He has successfully obtained his GED.³² Mr. Urbina has a
13
14
15
16

17
18 ²⁵ See ECF No. 168 at pg. 3.

19 ²⁶ See ECF No. 168 at pg. 3.

20 ²⁷ See ECF No. 168 at pg. 23.

21 ²⁸ See ECF No. 168 at pg. 23.

22 ²⁹ See ECF No. 168 at pg. 23.

23 ³⁰ See ECF No. 168 at pg. 24.

24 ³¹ See ECF No. 168 at pg. 24.

25 ³² See ECF No. 168 at pg. 24.

1 strong interest in studying mechanics, transmissions, and diagnostics.³³
2 He hopes to obtain training and education on the subjects while in
3 prison with the goal of using the knowledge and skills for future
4 employment upon his release from incarceration.
5

6 Mr. Urbina has never been married.³⁴ He has a son (15) with his
7 former partner, T.W.³⁵ Mr. Urbina's most significant dating
8 relationship was with his long-term partner, F.H. Mr. Urbina's son
9 lived with him (and F.H.) for several years while T.W. was struggling
10 with legal issues.³⁶ Mr. Urbina maintained a relationship with his son
11 up until he went into custody on the current charge.³⁷
12

13 Mr. Urbina has struggled with alcohol abuse throughout his life.³⁸
14 Mr. Urbina's drinking has contributed to his poor decision making.³⁹
15
16
17

18
19 ³³ See ECF No. 168 at pg. 23.

20 ³⁴ See ECF No. 168 at pg. 23.

21 ³⁵ See ECF No. 168 at pg. 23.

22 ³⁶ See ECF No. 168 at pg. 23.

23 ³⁷ See ECF No. 168 at pg. 23.

24 ³⁸ See ECF No. 168 at pg. 24.

25 ³⁹ See ECF No. 168 at pg. 24.

1 While on pretrial release Mr. Urbina completed an evaluation at
2 Merit.⁴⁰ Mr. Urbina then successfully completed 40 days of inpatient
3 treatment at American Behavioral Health Services (ABHS).⁴¹ Mr.
4 Urbina engaged in approximately six months of intensive outpatient
5 treatment at Merit before transferring to Central Washington
6 Comprehensive Mental Health (CWCMH).⁴² Mr. Urbina continued on
7 with Comprehensive up until his change of plea hearing.⁴³

8
9
10 Mr. Urbina is a man of religious faith. Leading up to his arrest he
11 was seeking help from God to stop doing what he was doing. He
12 believes this is a part of God's plan that this happened.⁴⁴ Mr. Urbina
13 feels remorse for his actions.⁴⁵

14
15
16 Finally, Mr. Urbina has minimal criminal history.⁴⁶ His two most
17

18
19 ⁴⁰ See ECF No. 168 at pg. 24.

20 ⁴¹ See ECF No. 168 at pg. 24.

21 ⁴² See ECF No. 168 at pg. 24.

22 ⁴³ See ECF No. 168 at pg. 24.

23 ⁴⁴ See ECF No. 168 at pg. 11.

24 ⁴⁵ See ECF No. 168 at pg. 11.

25 ⁴⁶ See ECF No. 168 at pgs. 18-22.

1 serious offenses come from when he was 18 years old in 2003.⁴⁷ Both
2 offenses were gross misdemeanors (Assault 4-DV / Protection Order
3 Violation-DV) to which Mr. Urbina served a total of 1 day in jail on the
4 Assault charge and 57 days in jail on the Protection Order Violation.⁴⁸
5 The remainder of Mr. Urbina's charges are mostly minor traffic
6 offenses, mostly DWLS 3.⁴⁹ Mr. Urbina's last non-DWLS 3 criminal
7 conviction was in 2007 (Reckless Driving) when he was 21 years old.⁵⁰

8
9 Based on the nature and circumstances of the offense and Mr.
10 Urbina's personal characteristics a sentence of 210 months
11 incarceration with 5 years of supervised release is an appropriate
12 sentence that is sufficient and no more than necessary in accordance
13 with 18 U.S.C. § 3553(a)(1).
14
15
16

17 **B. The need for the sentence imposed**
18
19
20
21

22 ⁴⁷ See ECF No. 168 at pg. 18.

23 ⁴⁸ See ECF No. 168 at 18.

24 ⁴⁹ See ECF No. 168 at pgs. 18-22.

25 ⁵⁰ See ECF No. 168 at pg. 19.

1 At the time of sentencing Mr. Urbina will have been in custody for
2 approximately 3 months.⁵¹ That is already approximately 1 month
3 longer than the longest sentence he has ever served.⁵² If the Court were
4 to follow Mr. Urbina's recommendation of 210 months in prison then he
5 would still have 17.25 years left on his sentence (207 months) to serve.
6 That is a substantial amount of punishment. Mr. Urbina will be 55
7 years old when he gets out of prison. At which point he would have 5
8 years of supervised release. This would mean that he will either be
9 incarcerated or have the threat of incarceration hanging over his head
10 until he is 60 years old.
11

12 This sentence reflects and addresses all of the concerns outlined in
13 18 U.S.C. § 3553 (a)(1)-(4). This sentence reflects the seriousness of the
14 offense. Mr. Urbina's actions were serious but somewhat mitigated in
15 comparison to others. One count of production was for consensually
16 filming his consensual sexual relationship with his long-time partner.
17 The other production was voyeuristic behavior that captured both
18
19
20
21
22
23

24 ⁵¹ See ECF No. 164.

25 ⁵² See ECF No. 168 at pg. 18.

1 adults and children using a public restroom. 17.5 years of
2 imprisonment in federal prison provides just punishment and respect
3 for the law.
4

5 210 months imprisonment and 5 years of supervised release also
6 provide a heavy dose of deterrence for Mr. Urbina. Mr. Urbina is
7 remorseful for his actions. He has never experienced anywhere near
8 this level of punishment. Anymore than 210 months is unnecessary.
9 This is a sufficient amount of punishment to deter Mr. Urbina from any
10 further misconduct.
11
12

13 210 months of imprisonment removes Mr. Urbina from the
14 general population until 2040. He will be further monitored by US
15 Probation until 2045. This sentence protects the public from Mr.
16 Urbina engaging in any future criminal misconduct. Importantly, Mr.
17 Urbina acknowledges his misconduct and has a genuine desire to accept
18 his punishment, make the most of his time in prison, and make the
19 most of what is left of his life. He has learned his lesson. Any further
20 punishment is unnecessary. This sentence strongly protects the public.
21
22
23

24 Finally, a sentence of 210 months and 5 years of supervised
25 release will help assist Mr. Urbina in furthering his education and

1 training. He is a mechanic and is excited about the opportunities for
2 vocational training in the BOP system. He is particularly interested in
3 the future of electric vehicles. He is excited to develop a skill set in this
4 field during his time at BOP. Additionally, Mr. Urbina will benefit from
5 mental health and chemical dependency treatment/classes while at
6 BOP.
7

8
9 In sum, a sentence of 210 months imprisonment with 5 years of
10 supervised release is sufficient but not greater than necessary. It is a
11 substantial amount of time that provides strong protection to the
12 public, reflects the seriousness of the offenses, and provides strong
13 deterrence. It also gives Mr. Urbina the opportunity to obtain
14 education, treatment, and vocational training within the BOP. At the
15 same time, it does not punish more than is necessary. It is a just
16 sentence under the circumstances.
17
18

19 Conclusion

20
21 For the foregoing reasons, Mr. Urbina respectfully asks the Court
22 to adopt his recommendation of 210 months confinement to be followed
23 by 5 years of supervised release.
24
25

1 Dated: June 26, 2023.

2
3
4
5 Respectfully Submitted,

6 By s/ Craig D. Webster
7 Craig D. Webster,
8 WSBA# 40064
9 Attorney for Miguel Urbina
10 Federal Defenders of Eastern
11 Washington and Idaho
12 306 East Chestnut Avenue
13 Yakima, Washington 98901
14 (509) 248-8920
15 (509) 248-9118 fax
16 Craig_Webster@fd.org

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

CERTIFICATE OF SERVICE

17 I hereby certify that on June 26, 2023, I electronically filed the
18 foregoing with the Clerk of the Court using the CM/ECF System which
19 will send notification of such filing to the following: Michael D. Murphy,
20 Assistant United States Attorney, and Carrie Valencia, United States
21 Probation Officer.
22
23

24 By s/ Craig D. Webster
25 Craig D. Webster